

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**June 30, 1998**

## DIVISION ONE

B114493 People (Not for Publication)  
v.  
Vasquez

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.  
Masterson, J.

[illegible]

The judgment is affirmed. The matter is remanded for issuance of a new abstract of judgment staying the sentence on count 2. The trial court is directed to forward the new abstract to the Department of Corrections.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.  
Dunn, J. (Assigned)

B108252 People (Not for Publication)  
v.  
Pagan et al.

The judgments are reversed.

Ortega, J.

We concur: Spencer, P.J.  
Dunn, J. (Assigned)

June 30, 1998-Continued

## DIVISION ONE (Continued)

B115909      People                                  (Not for Publication)  
v.  
R., Scott Henry

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.  
Masterson, J.

[illegible]

The matter is remanded for the trial court to issue a new abstract of judgment showing a conviction of possession of a controlled substance in violation of Health and Safety Code section 11350, subdivision (a). The new abstract must be forwarded to the Department of Corrections. In all other respects, the judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.  
Masterson, J.

B114285      Simon      (Not for Publication)  
v  
Simon  
In re Marriage of Pamela & James M. Simon

The judgment is affirmed. The parties are to bear their own costs.

Ortega, Acting P.J.

We concur: Masterson, J.  
Dunn, J. (Assigned)

June 30, 1998-Continued

## DIVISION ONE (Continued)

[illegible]

The judgment is reversed. The matter is remanded for a new trial.

Ortega, J.

We concur: Spencer, P.J.  
Dunn, J. (Assigned)

B112134 People (Not for Publication)  
v.  
Garcia

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.  
Vogel (Miriam A.), J.

B109481 People (Not for Publication)  
v.  
Garcia, Jr.

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Dunn, J. (Assigned)

DIVISION ONE (Continued)

B115794      J & H Capital Partners, L. P.                      (Not for Publication)

v.

Marsh & Mc Lennan, Inc., et al.

The summary judgment is reversed. Appellants are awarded costs.

Ortega, Acting P.J.

We concur:   Masterson, J.

Dunn, J. (Assigned)

B112346      Sazio

v.

Alcoser

Filed order denying petition for rehearing.

B118853      People                                      (Not for Publication)

v.

Dohner

The judgment is affirmed.

Ortega, Acting P.J.

We concur:   Vogel (Miriam A.), J.

Masterson, J.

B117645      People                                      (Not for Publication)

v.

Welshans

The judgment is affirmed.

Spencer, P.J.

We concur:   Vogel (Miriam A.), J.

Masterson, J.

DIVISION ONE (Continued)

B116115      People v. Weeks                      (Not for Publication)  
B119030      In re Weeks on Habeas Corpus

The judgment is affirmed. Petition for writ of habeas corpus is denied.

Spencer, P.J.

We concur:    Vogel (Miriam A.), J.  
                    Masterson, J.

B102115      People v. Hoag                      (Not for Publication)  
B117944      In re Hoag on Habeas Corpus

The judgment is affirmed. The petition for writ of habeas corpus is denied.

Spencer, P.J.

We concur:    Vogel (Miriam A.), J.  
                    Dunn, J. (Assigned)

B112947      People                                      (Not for Publication)  
                    v.  
                    Romero

The judgment is affirmed.

Spencer, P.J.

We concur:    Ortega, J.  
                    Masterson, J.

June 30, 1998-Continued

## DIVISION ONE (Continued)

B087052      People                                  (Not for Publication)  
v.  
Escobar et al.

The dangerous or deadly weapon enhancement as to each appellant is reversed. The judgment is affirmed in all other respects.

Dunn, J. (Assigned)

We concur: Spencer, P.J.  
Ortega, J.

B110666      People                                  (Not for Publication)  
v.  
Jose Daniel G.

The disposition order is modified to specify that the maximum term of confinement of four years, the high term sentence for aggravated assault (Pen. Code, § 245, subd. (a)(1)), which is the offense carrying the greatest sentence (*id.*, § 654). Insofar as the disposition order implies appellant waived his right to a section 777 hearing before the court imposes confinement, it is reversed. In all other respects, the orders are affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Dunn, J. (Assigned)

B114637 People (Not for Publication)  
v.  
Williams

The judgment is affirmed. The matter is remanded for the trial court to issue a corrected abstract of judgment showing imposition of the low term doubled to four years as a second strike and forward the new abstract to the Department of Corrections.

Ortega, J.

We concur: Spencer, P.J.  
Masterson, J.

June 30, 1998-Continued

## DIVISION ONE (Continued)

B115424 De Kuiper (Not for Publication)  
v.  
Emerson

The order is affirmed.

Spencer, P.J.

We concur: Masterson, J.  
Dunn, J. (Assigned)

B113369 City of Hawthorne (Not for Publication)  
v.  
Pool Pockets, Inc. et al.

The order is reversed. Plaintiff is to recover costs on appeal.

Spencer, P.J.

We concur: Ortega, J.  
Dunn, J. (Assigned)

B114877      Murillo      (Not for Publication)  
v.  
Rite Stuff Foods, Inc.

The judgment is reversed. Plaintiff is to recover her costs on appeal.

Spencer, P.J.

We concur: Masterson, J.  
Dunn, J. (Assigned)

DIVISION ONE (Continued)

B112531      Raif      (Not for Publication)

v.

City of San Gabriel

The judgment is reversed. Plaintiff is to recover costs on appeal.

Spencer, P.J.

We concur:   Masterson, J.

Dunn, J. (Assigned)

B109752      Adelstein et al.      (Not for Publication)

v.

Sharp et al.

We reverse the order quashing service of summons. Appellants are awarded costs.

Ortega, Acting P.J.

We concur:   Vogel (Miriam A.), J.

Masterson, J.

B116467      Ross      (Not for Publication)

v.

SVI Properties et al.

The order is reversed. Plaintiff is to bear his own costs on appeal.

Spencer, P.J.

We concur:   Ortega, J.

Vogel (Miriam A.), J.



June 30, 1998-Continued

## DIVISION ONE (Continued)

B109578      Racelis et al.                      (Not for Publication)  
v.  
Nuestro et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Masterson, J.  
Dunn, J. (Assigned)

B111931 Long Beach Housing Action Assoc. (Not for Publication)  
v.  
City of Long Beach et al.

The judgment is affirmed. Each party to bear own costs on appeal.

Spencer, P.J.

We concur: Masterson, J.  
Dunn, J. (Assigned)

B119799      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Donna M.  
In re Jenna B., a minor

The order is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Masterson, J.

DIVISION ONE (Continued)

B121096 Eleanor R. (Not for Publication)

v.

Superior Court, Los Angeles County  
(Dept. of Children & Family Services, r.p.i.)

The petition is denied.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Masterson, J.

B116954 People (Not for Publication)

v.

Herman R. Ontiveros

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.  
Masterson, J.

DIVISION TWO

B103287 Bernice Joan Sokol (Not for Publication)

v.

FSR Brokerage, Inc. et al.

The judgment of nonsuit on the breach of fiduciary duty claim is reversed.  
The fee award is therefore also reversed. The judgment is otherwise  
affirmed. Costs to appellants.

Zebrowski, J.

We concur: Fukuto, Acting P.J.  
Nott, J.

DIVISION THREE

B108072 Berger, Kahn, Shafton, Moss, Figler, (Not for Publication)  
Simon, and Gladstone, a Professional Corporation  
v.  
James Lewis, Robert Mahtook, Preis & Crawford, a Professional Law  
Corporation, et al.

The judgment (of dismissal) is affirmed. Respondents are to recover costs on appeal.

Kitching, J.

We concur: Croskey, Acting P.J.  
Goodman, J. (Assigned)

B101647 People  
v.  
Devlin

Filed order vacating submission of March 27, 1998. Due to the press of other court business and the complexity of the issues in this case, additional time is needed to complete and file the opinion in this matter. Cause resubmitted as of this date.

[illegible]

The judgment is reversed, and the cause is remanded with directions to the trial court to vacate its judgment in favor of plaintiff Gfoller and to enter a new and different judgment in favor of defendants Ostermeier and Gullwing Cars, Inc. and granting Gfoller no recovery on his complaint. Costs on appeal in favor of defendants Ostermeier and Gullwing Cars, Inc.

Kitching, J.

We concur:   Croskey, Acting P.J.  
                  Aldrich, J.

DIVISION THREE (Continued)

B105835 Cynthia Willard (Not for Publication)

v.  
City of Los Angeles

The judgment is affirmed. Costs on appeal awarded to the City of Los Angeles.

Kitching, J.

We concur: Croskey, Acting P.J.  
Aldrich, J.

B112950 People (Not for Publication)

v.  
Melvin Hawkins

The judgment is affirmed.

Kitching, J.

We concur: Klein, P.J.  
Aldrich, J.

B112717 People (Not for Publication)

v.  
Edmond Dermesropian

The judgment is affirmed.

Kitching, Acting P.J.

We concur: Aldrich, J.  
Goodman, J. (Assigned)

June 30, 1998-Continued

### DIVISION THREE (Continued)

B106059      People                                  (Not for Publication)  
v.  
Santos Balvino Duran

The judgment is affirmed.

Kitching, Acting P.J.

We concur: Aldrich, J.  
Goodman, J. (Assigned)

B106304      The Downey Venture, et al.  
v.  
LMI Insurance Co.

Filed order vacating submission of April 1, 1998. Due to the press of court business and the complexity of the issues in this case, additional time is needed to complete and file the opinion. Matter stands resubmitted as of this date.

## DIVISION FOUR

B111625 People (Not for Publication)  
v.  
Foster

The judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.  
Epstein, J.

June 30, 1998-Continued

## DIVISION FOUR (Continued)

[illegible]

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.  
Hastings, J.

B093517      Broughton, Jr., et al.      (Certified for Publication)  
v.  
Cigna Healthplans of California et al.

The order of the trial court is affirmed. Respondents are to have their costs on appeal.

Epstein, J.

We concur: Vogel (C.S.), P.J.  
Hastings, J.

B112210 Babai, et al. (Not for Publication)  
v.  
Fire Insurance Exchange and Cynthia Capistran

The judgments (orders of dismissal) are affirmed. Respondents are to recover their costs on appeal.

Hastings, J.

We concur: Epstein, Acting P.J.  
Cooper (F.M.), J. (Assigned)

June 30, 1998-Continued

## DIVISION FOUR (Continued)

B114167      Sam      (Not for Publication)  
v.  
Korean Air Lines Co., Ltd.

The judgment is affirmed. Respondent is to recover its costs on appeal.

Hastings, J.

We concur: Epstein, Acting P.J.  
Cooper (F.M.), J. (Assigned)

DIVISION SEVEN

[illegible]

The judgment is affirmed.

Johnson, J.

We concur:   Lillie, P.J.  
                      Neal, J.

B114295 People (Not for Publication)  
v.  
Gonzalez

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.  
Neal, J.